

ROTHNER, SEGALL & GREENSTONE  
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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DMR

SEIU UHW-WEST and JOINT  
EMPLOYER EDUCATION FUND;

Plaintiff,

v.

PRIME HEALTHCARE SERVICES, INC. dba  
GARDEN GROVE HOSPITAL MEDICAL  
CENTER; and DOES 1-10, inclusive,

Defendants.

CASE NO.  
**CV 12 2252**

COMPLAINT FOR TRUST FUND  
CONTRIBUTIONS TO EMPLOYEE  
BENEFIT PLAN

[29 U.S.C. §§ 185(a), 1132(a)(3),  
and 1145]



Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. This is an action for contributions due to employee benefit plans. Jurisdiction in this Court is based on §§ 502(a)(3), 502(e)(1), and 515 of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1132(a)(3), 1132(e)(1), 1145, and on §301(a) of the Labor Management Relations Act of 1947 ("LMRA"), 29 U.S.C. § 185(a).

2. Venue is proper in this Court pursuant to ERISA § 502(e)(2), 29 U.S.C. §

1 1132(e)(2), and LMRA § 301(a), 29 U.S.C. § 185(a), in that this is the district where the Plan is  
2 administered.

3  
4 **PARTIES**

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6 3. The claims in this action are brought on behalf of the SEIU UHW-WEST and  
7 JOINT EMPLOYER EDUCATION FUND ("Education Fund"). The Education Fund is now,  
8 and was at all times material herein, a jointly trustee labor-management multiemployer trust  
9 fund created and maintained pursuant to LMRA § 302(c)(5), 29 U.S.C. § 186(c)(5). The  
10 Education Fund is an "employee benefit plan" as that term is defined in ERISA § 3(3), 29 U.S.C.  
11 § 1002(3), and within the meaning of ERISA § 515, 29 U.S.C. § 145.

12  
13 4. Plaintiff Education Fund was created pursuant to separate Agreements and  
14 Declarations of Trust ("Trust Agreements") executed and maintained pursuant to Collective  
15 Bargaining Agreements ("CBA") with SEIU UHW-WEST and Employers in the health care  
16 industry. The Education Fund is funded by contributions from participating employers that are  
17 required to be made pursuant to the provisions of such CBAs.

18  
19 5. Plaintiff is informed and believes and on that basis alleges that Defendant Prime  
20 Healthcare Services, Inc. dba Garden Grove Hospital Medical Center ("Employer") is a  
21 California corporation with its principal place of business in Garden Grove, California. Employer  
22 is an "employer" engaged in "commerce" and in an "industry affecting commerce" as defined in  
23 LMRA §§ 2(2) and (7), 29 U.S.C. §§ 152 (2) and (7), and LMRA § 301(a), 29 U.S.C. § 185(a),  
24 and in ERISA §§ 3(5) and (12), 29 U.S.C. §§ 1002(5) and (12), and ERISA § 515, 29 U.S.C. §  
25 1145.

26  
27 6. Plaintiff is ignorant of the true names and capacities of  
28 defendants sued herein as DOES 1 through 10, inclusive, and therefore sue these defendants by

1 such fictitious names.

2  
3 7. Plaintiff is informed and believes, and thereon alleges, that at all material times  
4 each of the defendants was the agent and/or employee of the remaining defendants and that each  
5 was acting within the course and scope of such agency and/or employment. To the extent that  
6 the conduct and omissions alleged herein were perpetrated by one or more defendants, the  
7 remaining defendants confirmed and ratified such conduct and omissions.

8  
9 **FACTUAL ALLEGATIONS**

10 **[THE OBLIGATION TO MAKE BENEFIT CONTRIBUTIONS]**

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12 8. From 2007 through 2011, Employer was party to and bound by a CBA with SEIU  
13 UHW-WEST. The Education Fund has at all times been a third party beneficiary of the CBA.

14  
15 9. Under the CBA and Trust Agreements, the Employer is required to pay employee  
16 benefit plan contributions to the Education Fund. The amount of such contributions is based on  
17 .22% of the prior year's payroll.

18  
19 10. For the year 2010, Employer submitted a check in the amount of \$24,378.51,  
20 allegedly based on payroll records for the year 2009; however, it did not submit the 2009 payroll  
21 records to determine the accuracy of the amount due.

22  
23 11. For the year 2011, the Employer has refused to submit its 2010  
24 payroll records or its contributions.

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27 ///

28 ///

**FIRST CLAIM FOR RELIEF**  
**[FAILURE TO PAY MONIES OWED]**

12. Employer has failed to submit payroll records for 2009 to determine contribution amount owed for 2010;

13. Employer has failed to submit payroll records for 2010 to determine contribution amount owed for 2011;

14. Employer has failed to pay contributions due for the year 2011 based on .22% of its 2010 payroll records. Failure to pay is a violation of the CBA, LMRA § 301, 29 U.S.C. § 185, and ERISA § 515, 29 U.S.C. § 1145.

**WHEREFORE**, plaintiff seeks judgment against Employer as follows:

1. For copies of 2009 and 2010 payroll records;
2. For any outstanding 2010 contributions based on 2009 payroll records;
3. For 2011 contributions;
4. For liquidated damages and interest on all delinquent contributions;

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- 1           5.       For reasonable attorneys' fees and costs incurred;
- 2
- 3           6.       For such other and further relief as this Court deems proper.
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5       DATED: May 3, 2012

6                   GLENN ROTHNER  
7                   MICHELE SHERER ANCHETA  
8                   ROTHNER, SEGALL & GREENSTONE

9       By: 

10                   GLENN ROTHNER  
11                   Attorneys for Plaintiff, SEIU UHW-WEST and JOINT  
12                   EMPLOYER EDUCATION FUND  
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